



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 12

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June 4, 2004

Tambra Walerczak
1080 S. Hoagland Blvd.
Lot 89
Kissimmee, FL 34741

Re: Re Kissimmee, Inc. d/b/a Tandem Health Care of
Kissimmee
Case 12-RD-963

Dear Ms. Walerczak:

The above captioned case, petitioning for an investigation and determination of representative under Section 9(c) of the National Labor Relations Act (the Act), as amended, has been carefully investigated and considered.

Decision to Dismiss: As a result of the investigation, I find that further proceedings are unwarranted. Accordingly, I am dismissing the petition in this matter.

The instant decertification petition, which you filed on January 24, 2004, involves the same employer, union and employees¹ as are involved in Re Kissimmee, Inc. d/b/a Tandem Health Care of Kissimmee, Cases 12-CA-23619 and 12-CA-23620, in which Service Employees International Union, Local 1199, AFL-CIO, CLC (the Union), filed unfair labor practice charges against Re Kissimmee, Inc. d/b/a Tandem Health Care of Kissimmee (the Employer). On May 28, 2004, the Regional Director issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in Cases 12-CA-23619 and 12-CA-23620 alleging, among other things, that the Employer committed unfair labor practices in violation of Sections 8(a)(1)(3) and (5) of the National Labor Relations Act by: on or about dates between August 2003 and early November 2003, soliciting employees to initiate and circulate a petition among their co-workers to remove the Union as their collective bargaining representative, soliciting employees to solicit their co-workers to sign such a petition and to vote out the Union, and promising employees improvements in the employee dress code policy if they removed the Union as their collective bargaining representative; on or about a date in late September 2003,

¹ The recognized bargaining unit is as follows: All full-time and regular part-time certified nursing assistants, unit clerks, dietary employees, cooks, housekeeping employees, laundry employees and floor techs employed by the Employer at its facility in Kissimmee, Florida, excluding all other employees, all office clericals, confidential employees, professional employees, guards and supervisors as defined in the Act.

soliciting employees to convince other employees to vote to remove the Union as their collective bargaining representative; on or about dates in October and early November 2003, interrogating employees about the status of their efforts to get employee signatures on a petition to remove the Union as their collective bargaining representative; on or about October 31, 2003, telling its employees that they were prohibited from wearing Union t-shirts on dress-down days; on or about October 31, 2003, removing employee Eva Lord from its Kissimmee facility and requiring her to remove her Union t-shirt because she joined and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities; since on or about October 31, 2003, promulgating and maintaining a rule prohibiting employees from wearing Union t-shirts on dress-down days; and on or about a date in November 2003, changing its dress code policy and practice by eliminating Thanksgiving Day, Christmas Day and New Year's Day as dress-down days, without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct.

I find that a causal relationship exists between the above described unfair labor practices, if proven, and the subsequent expression of employee disaffection with the Union. I further find that the above-described unfair labor practices, if proven, directly affect the validity and sufficiency of the showing of interest that you submitted in support of your petition.

For the above reasons further proceedings are not warranted, and the petition is dismissed subject to a request for reinstatement of the petition by you as the Petitioner after the final disposition of Cases 12-CA-23619 and 12-CA-23620. As the Petitioner, you are being made a party in interest in the unfair labor practice proceeding, with an interest limited solely to receipt of a copy of the order or other document that operates to finally dispose of the proceeding.

Right to Request Review: Pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, any party may obtain a review of this action by filing a request therefore with the National Labor Relations Board, 1099 14th Street, NW, Washington, D.C. 20570. A copy of the request for review must be served on each of the other parties to the proceeding, as well as the undersigned. This request for review must contain a complete statement setting forth the facts and reasons upon which it is based. The request for review (eight copies) must be received by the Executive Secretary of the Board by close of business on June 18, 2004, EST (EDT), except that, upon good cause shown, the Board may grant special permission for a longer period within which to file. Requests for extensions of time should be submitted to the Executive Secretary of the Board in Washington. A copy of any such request for an extension of time should be submitted to me and to the other parties to this proceeding.

The request for review and any request for extension of time must include a statement that a copy has been served on me and on each of the other parties to this proceeding in the same or a faster manner as that utilized in filing the request with the Board.

Very truly yours,

Rochelle Kentov
Regional Director

cc:

Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Re Kissimmee, Inc. d/b/a
Tandem Health Care of Kissimmee
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